

BEFORE THE
UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Argyle Post Office
Argyle, Florida

Docket No. A2011-89

REPLY BRIEF OF THE PUBLIC REPRESENTATIVE

December 2, 2011

I. INTRODUCTION AND BACKGROUND

By a letter postmarked September 23, 2011, the Commission received a petition to review the Postal Service's determination to close the Argyle, Florida Post Office.¹ On September 28, 2011, the Postal Regulatory Commission (Commission) docketed the Petition, instituted the current review proceedings, appointed a Public Representative, and established a procedural schedule.² On October 7, 2011, the Postal Service filed an electronic version of the Administrative Record (AR) concerning its "Final Determination to Close the Argyle, FL Post Office and Extend Service by Rural Route Service" dated August 29, 2011, Postal Service Docket Number 1353310-32422.³

¹ Letter filed by Blythe D. Gottlieb of Argyle, Florida (Petition).

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 28, 2011 (Order No. 881).

³ United States Postal Service Notice of Filing, October 7, 2011. The filing includes 35 items prior to the cover sheet of the Final Determination (FD) with circular date stamps recording the 30 day posting of the FD – August 29, 2011 date of posting, September 30, 2011 date of removal.

STATEMENT OF FACTS

The Argyle Post Office, Argyle, Florida 32422-9998, is located in Walton County. It is an EAS Level-11 post office. Its customers rent a total of 98 Post Office Boxes. AR, Item No. 9. There are no permit mailers or postage meter customers. *Id.*, Item No. 15. There is no carrier service. *Id.*, Item No. 8. The post office is not suspended. *Id.*, Item No. 5.

Argyle is an unincorporated community. Local census data from September 2011 indicate that there are 16,629 people with a median age of approximately 36 years – the United States average is approximately 37 years. The number of residents per square mile is 60 – the United States average is 87.⁴ The community population consists of “doctors, lawyers, judges, educators, small business owners, farmers and ranchers.” *Id.*, Final Determination (FD), section II. Effect on the Community.⁵ Several residents are elderly and four are disabled. *Id.* There are no major businesses in Argyle; however, there are 29 small business owners such as “Mehlhorns Mini Mart, dollar Plus, Hogan’s Car Care and Taylor A/C.”⁶ There are six churches located in Argyle. *Id.* There is modest growth in Argyle - four to six houses were recently built and occupied in the Argyle area. *Id.*, Item No. 16.

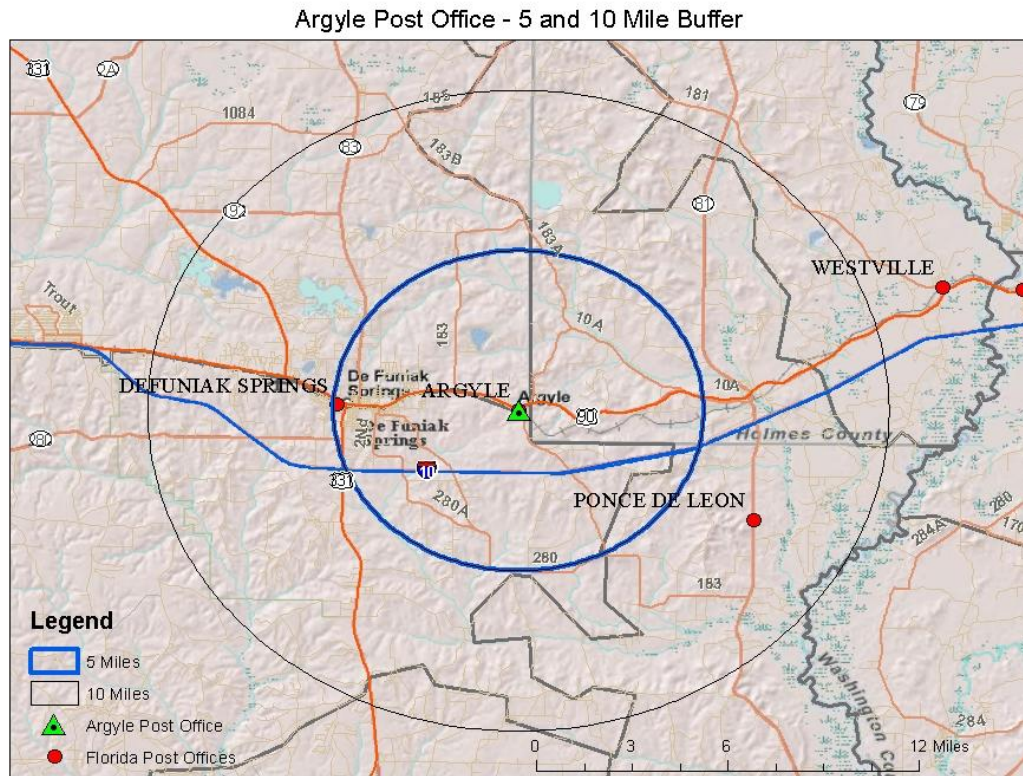
Delivery and retail service will be provided by the Defuniak Springs Post Office with either a rural carrier or a contract delivery carrier.⁷ Upon closing, the proposed administrative post office will be located approximately four miles from the Argyle Post Office. In addition, the Ponce De Leon Post Office is located seven miles from the Argyle Post Office. *Id.*, Item No. 4. The following Argyle, Florida map provides a snapshot of the post offices located near the Argyle, Florida Post Office.

⁴ <http://www.bestplaces.net/people/zip-code/florida/argyle/32422>.

⁵ No page numbers were provided in the Final Determination (FD).

⁶ AR, FD section II. “Effect on Community.” The Postal Service did not provide page or item numbers on the document.

⁷ AR, FD section VI. Summary.



The request for a discontinuance study dated January 1, 2011, was based on the office vacancy due to the postmaster retiring and a four percent decline in revenues in FY 2010, at the Argyle Post Office. *Id.*, Item No. 1. Argyle's postmaster retired on November 21, 2009. *Id.*, Item No. 33. Since then, a non-career Postmaster Relief (PMR) has been installed to operate the office and will be affected by the closing.⁸ *Id.*, Item No. 15. Window service at the Argyle Post Office is provided Monday through Friday from 8:30 a.m. to 1:00 p.m. and 2:30 p.m. to 4:00 pm; Saturday hours are from 8:30 a.m. to 11:00 a.m. The Post Office Lobby is open 24 hours Monday through Saturday. *Id.* Retail window daily transactions averaged 40.2 for a two week period from January 29, 2011 to February 11, 2011, accounting for an average of

⁸ See also, FD Item No. 18.

approximately 48 minutes of daily retail work. *Id.*, Item No. 10. Revenue was \$28,153 (73 revenue units) in FY 2008, \$27,744 (72 revenue units) in FY 2009 and \$26,762 (70 revenue units) in FY 2009. *Id.*, Item No. 33 at 2. The lease agreement signed in FY 2007 indicates that the rent was initially \$3,300 per annum.⁹ The lease expires on January 31, 2012. There is no 30-day cancellation clause. *Id.*, Item No. 15.

After closing the Argyle Post Office, the Defuniak Springs Post Office will continue to provide window service. Ninety-eight Post Office Boxes are currently rented at the Argyle Post Office; 626 Post Office Boxes are available at the Defuniak Springs Post Office.¹⁰ Currently, the Defuniak Springs Post Office hours are Monday through Friday 8:30 a.m. to 4:30 p.m. and Saturday 10:00 a.m. to 12:00 a.m. *Id.*, Item No. 18. The Defuniak Springs Post Office lobby is accessible 24 hours per day Monday through Saturday. *Id.* Post Office Box fees are higher at the Defuniak Springs Post Office than at the Argyle Post Office. For example, the current Argyle fee for a 3 inch by 5 inch box is \$21.00 for six months. The Defuniak Springs fee for a 3 inch by 5 inch box is \$31.00 for six months.¹¹ Retail window services are available at the Ponce De Leon Post Office located approximately seven miles from the Argyle Post Office. *Id.*, Item No. 4. The Ponce De Leon Post Office window service is available Monday through Friday from 8:30 a.m. to 11:00 p.m. and 1:00 p.m. to 4:30 p.m.¹²

A total of 125 questionnaires dated February 22, 2011, with a cover letter and a return envelope, were distributed to customers. The cover letter indicated the plan to close the Argyle Post Office and provide rural route service with roadside mailboxes installed by the customer. The letter explained the rationale for the Post Office closing.

⁹ AR FD section IV Economic Savings indicates that the annual lease cost is \$4,800, which the Postal Service stated in its Comments was the current monthly lease cost. USPS Comments Regarding Appeal (Comments) November 17, 2011.

¹⁰ *Id.*, Item No. 18 and FD section I. Responsiveness to Community Postal Needs.

¹¹ *Id.*, Item No. 15. See also, <https://poboxes.usps.com/poboxonline/search/landingPageValidation.do>

¹² http://usps.whitepages.com/service/post_office/ponce-de-leon-2834-n-highway-81-ponce-de-leon-fl-1377999

The community name and ZIP Code will continue to be used. AR, Item Nos. 21 and 23. Of the 125 questionnaires sent, 46 questionnaires were returned. One response was favorable, 23 were unfavorable and 22 expressed no opinion.¹³

On March 8, 2011, Postal Service representatives were available at the Defuniak Springs Civic Center from 6:00 p.m. to 8:00 p.m. to answer questions and respond to customer questions. Twenty-six customers attended the meeting. *Id.*, Item Nos. 24 and 25.

A community meeting was held on March 20, 2011 at 6:30 p.m. to 8:30 p.m. and forty-two customers were in attendance together with four Postal Service representatives. *Id.*, Item No. 24.

On March 30, 2011, the customers of the Argyle Post Office presented two Petitions protesting any change in the present status of their post office to Todd Smith, Manager, Post Office Operations. A total of 194 people signed the petitions.¹⁴ *Id.*, Item No. 33.

On April 16, 2011, the Proposal to Close the Argyle Post Office with a separate invitation for comments on the proposal was posted in the Argyle Post Office for the required 60 days and removed on June 17, 2011. *Id.*, Item Nos. 31 and 32. However, the Proposal to Close the Argyle, FL Post Office did not have round-date stamps for either the posting or removal date as requested by the Post Office Review Coordinator – only typed dates, of the posting and removal, appear.¹⁵

The Final Decision by the Vice President of Delivery and Post Office Operations to close the Argyle Post Office was posted in both the Argyle and Defuniak Springs on August 29, 2011 and removed September 30, 2011.¹⁶ The decision was based on: the postmaster vacancy and the decline in workload. *Id.* In the Proposal and Final

¹³ FD section I. "Responsiveness to Community Postal Needs."

¹⁴ *Id.*

¹⁵ AR Item No. 31 and the page following Item No. 32, Page No. 1.

¹⁶ *Id.*, FD section I. Responsiveness to Community Postal Needs. Round stamps were shown on the cover page of the Final Determination.

Determination, the Postal Service considered and responded to various concerns expressed by postal customers. *Id.*

III. POSITIONS OF THE PARTIES

A. The Petitioner

The Petitioner did not file either a Petitioner's Form 61 or initial brief or further comments. In the absence of those filings, Petitioner's view is limited to a letter that claims closing the Argyle Post Office will impact the security of the mail due to using rural route mail boxes. The closure will be inconvenient for patrons purchasing money orders and stamps and sending accountable mail and will adversely impact the community. In addition, the Petitioner mentions that closing the Argyle Post Office will put the safety of senior citizens and disabled residents at risk. AR, Item 27. Petitioner requests the Commission consider retaining the Argyle Post Office.

Without further explanation from the Petitioner, together with the Postal Service's review of the effects of the closing on the community and its plan to provide rural carrier delivery service, the Public Representative cannot determine whether Petitioner's objection could demonstrate the Final Decision is unlawful. Inconvenience to customers, alone, does not render a decision to close a post office contrary to law.

B. The Postal Service

The Postal Service argues that it has: (1) followed the proper procedures; (2) been consistent with the mandate of 39 U.S.C. § 404(d)(2)(A) -- considered the effect of the closing on the Argyle community, the economic savings of the closing, the effect on postal employees and other factors; and (3) determined the advantages outweigh the disadvantages and effective and regular service will continue to be provided to the Argyle customers.

IV. STANDARD OF REVIEW AND APPLICABLE LAW

A. Standard of Review

The PAEA delegates to the Commission the authority to review post office closings pursuant to 39 U.S.C. §404(d)(5). That section requires the Commission to review the Postal Service's determination to close a post office on the basis of the record that was before the Postal Service. The Commission shall set aside any determination, findings, and conclusions found to be – (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence on the record.

The Commission may affirm the Postal Service's determination or order the entire matter returned to the Postal Service for further consideration, but it may not modify the Postal Service's determination.¹⁷

B. The Law Governing Postal Service Determinations

Prior to making a determination to close or consolidate a post office, 39 U.S.C. §404(d)(1) requires that the Postal Service shall provide adequate notice of its intention at least 60 days prior to the proposed date of such action to persons served by such post office to insure they have an opportunity to present their views.

Prior to making a final determination to close or consolidate a post office, the Postal Service is required by 39 U.S.C. §404(d)(2) to consider: (i) the effect of the closing on the community served; (ii) the effect on the employees of the Postal Service employed at the office; (iii) whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;" (iv) the

¹⁷ Section 404(d)(5) also authorizes the Commission to suspend the effectiveness of a Postal Service determination pending disposition of the appeal. The petitioner in this proceeding did not request suspension of the closure of the Argyle Post Office.

economic savings to the Postal Service due to the closing; and (v) such other factors as the Postal Service determines are necessary. See 39 U.S.C. §404(d)(2)(A). The Postal Service is also precluded from considering compliance with provisions of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, *et seq.* See 39 U.S.C. §404(d)(2)(B).

In addition, the Postal Service's final determination must be in writing, address the aforementioned considerations, and be made available to persons served by the post office. 39 U.S.C. §404(d)(3). The Postal Service is prohibited from taking any action to close a post office until 60 days after its final determination is made available to persons served by such post office. 39 U.S.C. §404(d)(4).

The Postal Service also has regulations prescribing its requirements for closing post offices. 39 CFR 241.3.

V. ADEQUACY OF THE POSTAL SERVICE'S FINAL DETERMINATION

After careful review of the Postal Service's Final Determination, the materials in the Administrative Record and the contention presented in the Petition, the Public Representative believes the Postal Service appears to have adequately considered, and has met, the requirements of section 404(d)(2)(A) with regard to: (1) the effect of the closing on the community served, and; (2) whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining."

VI. PROCEDURAL QUESTIONS

The Public Representative's review indicates that there are questions as to whether the Postal Service complied with its own rules regarding the procedural requirements related to notices and postings.

A. Required Notices

The Postal Service's rules require posting of Proposals at "each affected post office." 39 CFR 241.3(d)(1). Copies of documentation posted at the Defuniak Springs Post Office were not provided as part of the Administrative Record and therefore not posted per postal rules. As noted above, no circular date stamps were provided on the "Invitation for Comments on the Proposal to Close," which was posted at the Argyle Post Office on April 16, 2011 and removed at the close of business on June 17, 2011. AR Item No. 32. The Postal Service's rules require the Proposal to be posted for comment for 60 days. 39 CFR 241.3(d)(i). Given the customer responses to the questionnaires and the Petitions filed with the Postal Service regarding the Argyle Post Office Closing, one may conclude that the Proposal to Close was posted at the Argyle Post Office as required, but may not have been posted at either the Defuniak Springs or the Ponce De Leon Post Offices. The possible failure to post the Final Determination to close the Argyle FL Post Office in other local Post Offices is not critical and does not require remand of the Final Determination.

B. Additional Issues

Customers expressed concern about installing and maintaining mailboxes. AR, Item No. 33 at 3. At community meetings the Postal Service could minimize customers' anxiety about the transition from P.O. Box delivery to rural route delivery for senior citizens and disabled individuals by clearly identifying the possible assistance the Postal Service would provide for hardship cases or, in the alternative, the Postal Service could provide names of local organizations or persons who would be willing to assist those needing help with the installation of the mail box. In addition, it would be helpful if the Postal Service was more forthcoming about what constitutes a hardship case.

In addition, there is no information on whether or not any consideration has been given to maintaining a collection box near the closing Argyle Post Office. The lack of a

collection box at or close to the location of the closed post office may impact the general public's opinion of the Postal Service's responsiveness to the needs of the community.

VII. CONCLUSION

The Postal Service has followed the required procedures to close the Argyle, Florida Post Office thus, the decision to close should be affirmed.

Respectfully Submitted,

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